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HOUSE BILL 2461

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Conway, Cody, Campbell, Hatfield, Poulsen, Keiser, Cole, Murray and Scheuerman

Read first time 01/11/96. Referred to Committee on Government Operations.

1 AN ACT Relating to state contracts; and adding a new section to  
2 chapter 43.19 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.19 RCW  
5 to read as follows:

6 To ensure the economical and efficient administration and  
7 completion of state contracts, the following procedures must be used  
8 for all contracts for purchases and sales executed by the state  
9 purchasing and material control director under RCW 43.19.190 through  
10 43.19.1939, or executed by agencies, including educational  
11 institutions, under delegated authority granted in accordance with RCW  
12 43.19.190 or 28B.10.029:

13 (1) Contracting is not permitted with employers that permanently  
14 replace lawfully striking employees. A contract for purchases or sales  
15 may not be executed unless it includes a provision certifying that the  
16 contracting employer will not permanently replace lawfully striking  
17 employees. Contracts for purchases or sales are subject to termination  
18 in accordance with this section if the contracting employer permanently  
19 replaces his or her lawfully striking employees.

1 (2)(a) The director of the department of labor and industries may  
2 investigate an organizational unit of an employer contracting with the  
3 state to determine whether the unit has permanently replaced lawfully  
4 striking workers. Such investigation must be conducted in accordance  
5 with procedures established by the director.

6 (b) The director shall receive and may investigate complaints by  
7 employees of any employer covered under (a) of this subsection if the  
8 complaints allege that lawfully striking employees have been  
9 permanently replaced.

10 (3)(a) If the director of the department of labor and industries  
11 determines, after notice and an opportunity for hearing, that an  
12 employer contracting with the state has permanently replaced lawfully  
13 striking employees, the director may make a finding that it is  
14 appropriate to terminate the contract. The director shall transmit  
15 that finding to the head of any agency that contracts with the  
16 contractor.

17 (b) The head of the contracting agency may object to the  
18 termination of a contract or contracts of a state contractor determined  
19 to have permanently replaced legally striking employees. If the head  
20 of the agency so objects because termination of the contract would  
21 severely disrupt the operation of the agency to the detriment of state  
22 government or would not be in the public interest, he or she shall set  
23 forth the reasons for not terminating the contract or contracts in a  
24 written response to the director. In such case, the termination may  
25 not be issued. The head of the contracting agency shall report to the  
26 director and appropriate committees of the legislature at least  
27 annually those contracts that have been terminated under this section.

28 (4) If the director of the department of labor and industries  
29 determines that a contractor has permanently replaced lawfully striking  
30 employees, the director shall debar the contractor, thereby making the  
31 contractor ineligible to receive state contracts. Agencies may not  
32 solicit offers from, award contracts to, or consent to subcontracts  
33 with these contractors unless the head of the agency or his or her  
34 designee determines, in writing, that there is a compelling reason for  
35 such action. Unless exceptional circumstances exist, the scope of the  
36 debarment is limited to those organizational units of a state  
37 contractor that the director finds to have permanently replaced  
38 lawfully striking workers. The period of the debarment may not extend  
39 beyond the date when the labor dispute precipitating the permanent

1 replacement of lawfully striking workers has been resolved, as  
2 determined by the director.

3 (5) The director of the department of labor and industries shall  
4 publish, or cause to be published, in the Washington State Register,  
5 the names of contractors that have, in the judgment of the director,  
6 permanently replaced lawfully striking employees and have been the  
7 subject of debarment.

8 (6)(a) The director of the department of labor and industries is  
9 responsible for the administration and enforcement of this section.  
10 The director may adopt rules deemed necessary and appropriate to  
11 achieve the purposes of this section.

12 (b) Each agency or educational institution executing a contract for  
13 purchases or sales shall cooperate with the director and provide such  
14 information and assistance as the director may require in the  
15 performance of the director's functions under this section.

16 (c) The director may delegate any function or duty under this  
17 section to any employee of the department of labor and industries or to  
18 any other employee of an agency or educational institution, with the  
19 consent of the head of the agency or educational institution in which  
20 that employee serves.

21 (7) This section is not intended, and should not be construed, to  
22 create any right or benefit, substantive or procedural, enforceable at  
23 law by a party against the state, its agencies, its officers, or its  
24 employees. This section does not preclude, however, review of final  
25 agency decisions in accordance with chapter 34.05 RCW.

26 (8) This section applies only to situations in which contractors  
27 have permanently replaced lawfully striking employees after the  
28 effective date of this section.

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